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21 UNITED STATES DISTRICT COURT
22 DISTRICT OF NEVADA

23 PETER DELVECCHIA, individually and as) Case No.: 2:19-cv-01322-KJD-DJA
24 next friend of A.D., a Minor,)
25)
26 Plaintiffs,) **FOURTH STIPULATED MOTION**
27) **TO EXTEND DEADLINES**
28 v.)
29 FRONTIER AIRLINES, INC.,)
30 SCOTT WARREN, and REX SHUPE,)
31)
32 Defendants.)
33 _____)

34 Plaintiffs Peter DelVecchia, individually and as next friend of A.D., a minor (collectively
35 “Plaintiffs”), and Defendants Frontier Airlines, Inc. (“Frontier”), Scott Warren, and Rex Shupe
36 (collectively “Defendants”), each by their undersigned counsel, hereby file their **FOURTH**
37 **STIPULATED MOTION TO EXTEND DEADLINES**, seeking to extend the deadlines to disclose
38 initial and rebuttal experts, the discovery cutoff deadline, dispositive motions, and the joint proposed

1 pretrial order set forth in this Court's May 26, 2020 Order (ECF No. 87) by approximately 180 days each.

2 The parties seek to extend these deadlines as follows:

- 3 • Extend the deadline to disclose initial experts from September 23, 2020 to ***March 19, 2021***;
- 4 • Extend the deadline to disclose rebuttal experts from October 26, 2020 to ***April 30, 2021***;
- 5 • Extend the discovery cutoff date from November 23, 2020 to ***May 21, 2021***;
- 6 • Extend the deadline for dispositive motions from December 23, 2020 to ***June 25, 2021***; and
- 7 • Extend the deadline to file the joint proposed pretrial order from January 25, 2020 to ***July***
- 8 ***23, 2021.***

9
10 The first reason for this stipulated motion requesting an additional extension, and the prerequisite
11 to most additional necessary discovery, is that some of the documents Plaintiffs have requested in written
12 discovery have been determined to be Sensitive Security Information (SSI) by the Transportation Security
13 Administration (TSA). On April 1, 2020, this Court ruled that the circumstances of this case warrant
14 designating Plaintiff Peter DelVecchia and his attorney John McKay as "covered persons" under 49 CFR
15 Part 1520.7 and required them to submit to any security background check or other procedures or
16 requirements for safeguarding SSI required by TSA. (ECF No. 76.) In accordance with this Order, Messrs.
17 DelVecchia and McKay are in the process of submitting to a background check by TSA. It is unknown
18 when this process will be completed by TSA, although Messrs. DelVecchia and McKay believe they have
19 submitted all information that TSA has requested of them. TSA has also required that the parties stipulate
20 to an additional protective order specifically regarding SSI. Plaintiffs have presented objections to certain
21 language in the proposed SSI protective order, and the TSA is in the process of responding to those
22 objections. The parties are still communicating with TSA in an effort to resolve this issue prior to involving
23 the Court. An extension of deadlines is needed to account for the process involved in resolving SSI issues
24 in this case.

1 Additionally, Plaintiffs have requested deposition testimony from Frontier pursuant to Fed. R. Civ.
2 P. 30(b)(6) as to 33 deposition topics. The parties currently anticipate taking these depositions by Zoom,
3 thus limiting the need for the parties to travel during the global pandemic. However, TSA must release the
4 SSI documents discussed above to Messrs. DelVecchia and McKay before Plaintiffs are able to depose
5 Frontier's Fed. R. Civ. P. 30(b)(6) witnesses.

6 The aforementioned Rule 30(b)(6) depositions will be in addition to three to five fact witness
7 depositions that still need to be completed, including certain passengers on the subject flight and Plaintiffs'
8 medical providers. Further, the Court's Order (ECF No. 83) on Plaintiff's Motion to Compel imposed
9 restrictions on certain document requests and topics Plaintiffs wished to cover in the Fed. R. Civ. P.
10 30(b)(6) depositions. Plaintiffs filed objections pursuant to Fed. R. Civ. P. 72(a) to have those restrictions
11 reviewed by the District Judge prior to the depositions being scheduled (ECF No. 88). On June 5, 2020,
12 Frontier filed its Response to Plaintiffs Objections (ECF No. 104). On that same date, Plaintiffs filed a
13 request for leave to file a Reply to Defendants' Response pursuant to Local Rule IB 3-1(a) (ECF No. 105).
14 The parties await the Court's rulings on that request and on Plaintiffs' objections. Concurrently with all of
15 the aforementioned events, the parties have engaged in discussions regarding resolution of this matter.

16 Finally, Frontier seeks to have both Plaintiffs examined pursuant to Fed. R. Civ. P. 35. The parties
17 are in the process of attempting to agree on terms and protocols for these examinations to avoid the need
18 for a Fed. R. Civ. P. 35 motion. If agreed to or ordered by this Court, these examinations must be conducted
19 in person after the pandemic-related travel advisories and assembly restrictions are lifted, and medical
20 facilities are no longer restricted to functions essential to combating the pandemic. Although it remains
21 unknown when the pandemic-related restrictions will be lifted, the parties believe that a six-month
22 extension of deadlines is necessary to resolve the various obstacles to completing the necessary discovery.

The parties have been working diligently to complete fact discovery. Written discovery is ongoing, and 14 party and fact witness depositions have been completed. Despite the parties' best efforts, in light of the unprecedented global coronavirus developments and the requirement to work with the TSA regarding sensitive security information, additional time is needed to complete fact and expert discovery. Although the parties are working cooperatively and as expeditiously as possible to conduct discovery and to otherwise comply with the Court's Scheduling Order as previously extended, under the unusual circumstances at hand, more time is required. This is the fourth motion for a continuance of pretrial deadlines filed in this case.

DATED this 21st day of August, 2020

Respectfully submitted,

/s/John D. McKay
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Attorneys for Plaintiffs Peter DelVecchia & A.D., a Minor

IT IS SO ORDERED.

DATED: August 25, 2020

August 26, 2011

Daniel J. Albrechts
United States Magistrate Judge

/s/ *Matthew D. Martin*
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13 *Attorneys for Defendants Frontier Airlines, Inc.,*
14 *Scott Warren & Rex Shupe*

15 **CERTIFICATE OF SERVICE**

16 Pursuant to LR IC 4-1, I hereby certify that on the 21st day of August, 2020, the foregoing
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18 **FOURTH STIPULATED MOTION TO EXTEND DEADLINES** was served upon the following
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20 counsel of record *by email only*:

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17 IT IS SO ORDERED:
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19 UNITED STATES DISTRICT JUDGE
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21 DATED: _____
22